

**OUTTEN & GOLDEN LLP**

Adam T. Klein (AK 3293)  
Justin M. Swartz (JS 7989)  
Tammy Marzagliano (TM 2934)  
Cara E. Greene (CG 0722)  
3 Park Avenue, 29th Floor  
New York, New York 10016  
Telephone: (212) 245-1000

**BRUCKNER BURCH PLLC**

Richard J. Burch (Texas Bar No.  
24001807) (admitted *pro hac vice*)  
1415 Louisiana, Suite 2125  
Houston, Texas 77002  
Telephone: (713) 877-8788

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**SIRI DIAZ, CAROLYN SIEGEL, TALIA  
BUMB, BLERTA VIKKI, DANIELLE  
OWIMRIN, SUSAN LEVIN, on behalf of  
themselves and all others similarly situated,**

**Plaintiffs,**

**-against-**

**SCORES HOLDING COMPANY, INC.; GO  
WEST ENTERTAINMENT, INC. a/k/a  
SCORES WEST SIDE; SCORES  
ENTERTAINMENT, INC., a/k/a SCORES  
EAST SIDE; ENTERTAINMENT  
MANAGEMENT SERVICES, INC.; and 333  
EAST 60<sup>th</sup> STREET, INC. a/k/a SCORES  
EAST SIDE.**

**Defendants.**

**No. 07-8718 (RMB)**

**DECLARATION OF TAMMY  
MARZAGLIANO IN SUPPORT  
OF MOTION FOR  
CONDITIONAL  
CERTIFICATION AND COURT-  
AUTHORIZED NOTICE  
PURSUANT TO SECTION 216(b)  
OF THE FLSA**

I, Tammy Marzagliano, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I am an associate at Outten & Golden LLP, attorneys for Plaintiffs, and an attorney in good standing admitted to practice in the State of New York and before this Court. I make this declaration in support of Plaintiffs' Motion for Conditional Certification as an FLSA Collective Action and for Court-Authorized Notice Pursuant to Section 216(b) of the FLSA.

2. During the deposition of Plaintiff Blerta Vikki on January 28, 2008, Defendants' counsel introduced several employment documents from Scores East Side (*see Exhibit Q* (attached hereto)). These documents were not obtained from Plaintiffs or pursuant to a subpoena.

3. On February 21, 2008, Defendants produced further documents from Scores East Side (*see Exhibit R* (attached hereto)) to Plaintiffs. These documents were not obtained from Plaintiffs or pursuant to a subpoena.

4. On March 12, 2008, Plaintiffs noticed the depositions of Richard Goldring, Harvey Osher, Curtis Smith and Spiro Anastasiadis. To date, Defendants have not produced any of these witnesses.

5. On March 18, 2008, pursuant to Fed.R.Civ.P. 30(b)(6), Plaintiffs served upon Defendants a deposition notice pertaining to Scores' policies and procedures. To date, Defendants have not identified or produced any witnesses.

6. Attached as **Exhibit A** is a true and correct copy of the declaration of Talia Bumb, dated January 17, 2008 ("Bumb Dec.").

7. Attached as **Exhibit B** is a true and correct copy of the declaration of Siri Diaz, dated January 16, 2008 ("Diaz Dec.").

8. Attached as **Exhibit C** is a true and correct copy of the declaration of Susan Levin dated January 16, 2008 ("Levin Dec.").

9. Attached as **Exhibit D** is a true and correct copy of the declaration of Carolyn Siegel dated January 17, 2008 ("Siegel Dec.").

10. Attached as **Exhibit E** is a true and correct copy of the declaration of Blerta Vikki dated January 17, 2008 ("Vikki Dec.").

11. Attached as **Exhibit F** is a true and correct copy of the declaration of Danielle Owimrin dated March 28, 2008 ("Owimrim Dec.").

12. Attached as **Exhibit G** are excerpts from the deposition transcript of Curtis Smith (“Smith Tr.”) taken February 7, 2008.

13. Attached as **Exhibit H** are excerpts from the deposition transcript of John Neilson (“Neilson Tr.”) taken February 7, 2008.

14. Attached as **Exhibit I** are excerpts from the deposition transcript of Blerta Vikki taken on January 28, 2008 (“Vikki Tr.”).

15. Attached as **Exhibit J** are excerpts from the deposition transcript of Carolyn Siegel taken on January 8, 2008 (“Siegel Tr.”).

16. Attached as **Exhibit K** are excerpts from the deposition transcript of Talia Bumb taken on January 24, 2008 (“Bumb Tr.”).

17. Attached as **Exhibit L** is a true and correct copy of Plaintiffs’ Second Amended Complaint (“SAC”), dated February 21, 2008.

18. Attached as **Exhibit M** is a true and correct copy of Scores Holding Co. Form 10QSB/A, filed with the Securities & Exchange Commission on May 23, 2007 (“Scores SEC filing”).

19. Attached as **Exhibit N** is a true and correct print version of a webpage from Score’s website, last accessed on January 14, 2008, at <http://www.scoresholding.com/operations.htm> (“Scores Operations Webpage”).

20. Attached as **Exhibit O** is a true and correct print version of a webpage from Score’s website, last accessed on January 14, 2008, at the site <http://www.scoresholding.com/profile.htm> (“Scores Profile Webpage”).

21. Attached as **Exhibit P** is a true and correct copy of a Complaint filed by *inter alia* SHC on July 25, 2005, in Supreme Court of the State of New York (“State Complaint”).

22. Attached as **Exhibit Q** are true and correct copies of exhibits attached to the deposition transcript of Blerta Vikki taken on January 28, 2008 (“Vikki Dep. Exhibits”).

23. Attached as **Exhibit R** are true and correct copies of documents produced by Defendants, bates marked GW0212-GW0229, GW0234-GW0235, and GW0244-252 (“East Side Documents”).

24. Attached as **Exhibit S** is a true and correct copy of Scores’ Entertainer Independent Contractor Agreement, GW234-235 (“Contractor Agreement”).

25. Attached as **Exhibit T** is a true and correct copy of Magistrate Judge Katz’s Order, dated March 24, 2008 (“Katz’s Order”).

26. Attached as **Exhibit U** is a true and correct copy of Plaintiffs’ Proposed Notice to Potential Plaintiffs (“Notice”).

27. Attached as **Exhibit V** is a true and correct copy of the “plain language” collective action notice proposed by the Federal Judicial Center, also available at [http://www.fjc.gov/public/home.nsf/autoframe?openform&url\\_l=/public/home.nsf/inavgeneral?openpage&url\\_r=/public/home.nsf/pages/376](http://www.fjc.gov/public/home.nsf/autoframe?openform&url_l=/public/home.nsf/inavgeneral?openpage&url_r=/public/home.nsf/pages/376). (“Model Notice”).

#### **Unpublished Decisions**

28. Attached as **Exhibit W** is a copy of *Anglada v. Linens ‘n Things, Inc.*, No. 06 Civ. 12901, 2007 U.S. Dist. LEXIS 39105 (S.D.N.Y. Apr. 26, 2007).

29. Attached as **Exhibit X** is a copy of *Bursell v. Tommy’s Seafood Steakhouse*, Civil Action No. H-06-0386, 2006 U.S. Dist. LEXIS 80526 (S.D. Tex. Nov. 3, 2006).

30. Attached as **Exhibit Y** is a copy of *Carter v. Indianapolis Power & Light Co.*, IP 102 CV 01812, 2003 U.S. Dist. LEXIS 23398 (S.D. Ind. Dec. 23, 2003).

31. Attached as **Exhibit Z** is a copy of *Chan v. Sung Yue Tung Corp.*, 03 Civ. 6048 (GEL), 2007 U.S. Dist. LEXIS 7770 (S.D.N.Y. Feb. 1, 2007).

32. Attached as **Exhibit AA** is a copy of *Chowdhury v. Duane Reade, Inc.*, No. 06 Civ. 2295, 2007 U.S. Dist. LEXIS 73853 (S.D.N.Y. Oct. 2, 2007).

33. Attached as **Exhibit BB** is a copy of *Cuzco v. Orion Builders, Inc.*, 06 Civ. 2789 (SCR), 2007 U.S. Dist. LEXIS 21473 (S.D.N.Y. March 8, 2007).

34. Attached as **Exhibit CC** is a copy of *Damassia v. Duane Reade, Inc.*, 04 Civ. 8819 (GEL), 2006 U.S. Dist. LEXIS 73090 (S.D.N.Y. Oct. 5, 2006).

35. Attached as **Exhibit DD** is a copy of *Dominguez v. Don Pedro Restaurant*, 2:06 Civ. 241, 2007 U.S. Dist. LEXIS 6659 (N.D. Ind. Jan. 25, 2007).

36. Attached as **Exhibit EE** is a copy of *Dominguez v. Don Pedro Rest.*, No. 2:06 CV 241, 2007 U.S. Dist. LEXIS 72444 (N.D. Ind. Sep. 26, 2007).

37. Attached as **Exhibit FF** is a copy of *Donovan v. Tavern Talent & Placements, Inc.*, Civ. No. 84-F-401, 1986 U.S. Dist. LEXIS 30955 (D. Colo. Jan. 8, 1986).

38. Attached as **Exhibit GG** is a copy of *Gutescu v. Carey Int'l., Inc.*, 01-4026-CIV, 2003 U.S. Dist. LEXIS 27507 (S.D. Fla. June 17, 2003)

39. Attached as **Exhibit HH** is a copy of *Hallissey v. America Online, Inc.*, Civ. No. 99-cv-3785, 2008 U.S. Dist. LEXIS 18387 (S.D.N.Y. Feb. 19, 2008)

40. Attached as **Exhibit II** is a copy of *Harrington v. Education Management Corp.*, No. 02 Civ. 0787, 2002 U.S. Dist. LEXIS 8823 (S.D.N.Y. May 17, 2002).

41. Attached as **Exhibit JJ** is a copy of *Jacobsen v. The Stop & Shop Supermarket Co.*, No. 02 Civ. 5915, 2003 U.S. Dist. LEXIS 7988 (S.D.N.Y. May 15, 2003).

42. Attached as **Exhibit KK** is a copy of *Khalil v. The Original Homestead Restaurant, Inc.*, No. 07 Civ. 695, 2007 U.S. Dist. LEXIS 70372 (S.D.N.Y. Aug. 9, 2007).

43. Attached as **Exhibit LL** is a copy of *Krueger v. N.Y. Telephone Co.*, Nos. 93 Civ. 0178-79, 1993 U.S. Dist. LEXIS 9988 (S.D.N.Y. July 21, 1993).

44. Attached as **Exhibit MM** is a copy of *Krzesniak v. Cendant Corp.*, No. C 05-05156, 2007 U.S. Dist. LEXIS 47518 (N.D. Cal. June 20, 2007)

45. Attached as **Exhibit NN** is a copy of *Legrand v. Education Management Corp.*, No. 03-9798, 2004 U.S. Dist. LEXIS 17696 (S.D.N.Y. Sept. 2, 2004).

46. Attached as **Exhibit OO** is a copy of *Lemus v. Burnham Painting & Drywall Corp.*, 2:06-cv-01158, 2007 U.S. Dist. LEXIS 46785 (D. Nev. June 25, 2007)

47. Attached as **Exhibit PP** is a copy of *Masson v. Ecolab, Inc.*, No. 04 Civ. 4488, 2005 U.S. Dist. LEXIS 18022 (S.D.N.Y. Aug. 17, 2005).

48. Attached as **Exhibit QQ** is a copy of the court's opinion in *Nerland v. Caribou Coffee Co., Inc.*, 05 Civ. 1847-PJS (D. Minn. Apr. 6, 2007)

49. Attached as **Exhibit RR** is a copy of *Pendlebury v. Starbucks Coffee Co.*, 04 Civ. 80521, 2007 U.S. Dist. LEXIS 74846 (S.D. Fla. Sept. 20, 2007).

50. Attached as **Exhibit SS** is a copy of *Quinteros v. Sparkle Cleaning, Inc.*, Civ. No. AW-07-0628, 2008 U.S. Dist. LEXIS 6955 (D. Md. Jan. 28, 2008).

51. Attached as **Exhibit TT** is a copy of *Sipas v. Sammy's Fishbox, Inc.*, 05 Civ. 10319 (PAC), 2006 U.S. Dist. LEXIS 24318 (S.D.N.Y. Apr. 24, 2006).

52. Attached as **Exhibit UU** is a copy of *Tierno v. Rite Aid Corp.*, No. C 05-02520, 2006 U.S. Dist. LEXIS 71794 (N.D. Cal. Aug. 31, 2006).

53. Attached as **Exhibit VV** is a copy of *Torres v. Gristede's Operating Corp.*, 04 Civ. 3316 (PAC), 2006 U.S. Dist. LEXIS 74039 (S.D.N.Y. Sept. 28, 2006).

54. Attached as **Exhibit WW** is a copy of *Westfall v. Kindle Intern., CPU, LLC*, Civ. No. 1:05-cv-00118, 2007 U.S. Dist. LEXIS 11304 (N.D. W.Va. Feb. 15, 2007).

55. Attached as **Exhibit XX** is a copy of *Whiteway v. FedEx Kinko's Office & Print Servs.*, No. C 05-2320, 2006 U.S. Dist. LEXIS 69193, at \*6 (N.D. Cal. Sep. 13, 2006).

56. Attached as **Exhibit YY** is a copy of *Zhao v. Benihana, Inc.*, No. 01 Civ. 1297 (KMW), 2001 U.S. Dist. LEXIS 10678 (S.D.N.Y. May 7, 2001).

Dated: New York, New York  
March 28, 2008

/s/ Tammy Marzagliano  
Tammy Marzagliano  
Outten & Golden LLP

3 Park Avenue, 29<sup>th</sup> Floor  
New York, New York 10016  
Telephone: (212) 245-1000  
Facsimile: (212) 977-4005

Attorney for Plaintiffs